IN THE HIGH COURT OF JUDICATURE AT PATNA
MA No.74 of 2005
THE ORIENTAL INSURANCE CO LTD
Versus
RAJBALAV SINGH & ORS
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13. 20.11.2008 This appeal is against an award dated 18.3.2004 passed in Case No. CWC No. 14 of 1999 of the Dy. Labour Commissioner cum Workmen's Compensation Commissioner, Magadh Division, Gaya whereby the appellant, Oriental Insurance Company has been directed to pay a compensation of Rs. 2, 16,000.00 along with an interest @ 12 per cent as directed in the award.

Mr. Devi Kant Jha, the learned counsel for the appellant argued this appeal on the point of jurisdiction only.

Referring Government's notification i.e. S.O. No.1188- L & E dated 31.12.1991 as promulgated under Sub-section (1) and (2) of Section 20 of the Workmen's compensation Act, 1923 it is pointed out that the Presiding Officer of the labour Court has been appointed by the Government as an ex-officio Commissioner to deal with all contested cases under the Act and that the Officers other then Presiding Officer of the Labour Courts are ex-officio Commissioners to deal with non-contested cases only. Further provision under Schedule to the notification regarding jurisdiction of the Presiding Officer of the Labour Courts with respect to different areas has also been specified.

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The leaned counsel for the appellant submitted that in this case the appellant who was the Opposite Party before the Dy. Labour Commissioner cum Workmen's Compensation Commissioner, Gaya had disputed his liability to the compensation claim, hence, the case was a contested one and under the provisions of the aforesaid

notification the concerned Dy Labour Commissioner had no jurisdiction to pass any order in that case and the same had to be transferred to the concerned Presiding Officer of the concerned Labour Court. In support of his submissions, the learned counsel, referred to the decision in the case of Parmada Devi Vrs. Vishwanath Singh and Ors. Reported in 2003(2) PLJR 722 wherein this court has held that in view of the Section 20(1) of the Workmen's Compensation Act, 1923 and the aforesaid S.O. No.1188 dated 31.12.1991 when employer contests the claim, Dy. Labour Commissioner cum Commissioner, Workmen's Compensation under the Act does not have the jurisdiction to deal with the matter and he has to refer it to the Labour Court for adjudication.

Thus, in view of the aforesaid provisions of law and the notification and also as held above by this Court the concerned Dy. Labour Commissioner cum Commissioner, Workmen's Compensation who had passed the impugned order had no jurisdiction to pass it. Therefore, the impugned order is not fit to be sustained under law. Hence, the same is hereby set aside. The Dy. Labour Commissioner cum Commissioner, Workmen's Compensation will refer the matter for proper adjudication to the Presiding Officer of the concerned Labour Court.

In the result, this appeal is allowed in terms as indicated above.

(C.M. Prasad, J.)

Ravi/-

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